



Governor  
**Chris Gregoire**

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GOVERNMENT WORKING SMARTER

2010 POLICY BRIEF

## PROTECTING PUBLIC SAFETY WITH ENHANCEMENTS TO SPECIALIZED MENTAL HEALTH SERVICES

Mental illness is the leading cause of disability in America. The Surgeon General estimates that one in five Americans will experience mental illness at some point in their lives. The number of Americans with chronic serious mental illnesses is much smaller — less than three percent of the population. The vast majority of individuals with mental illnesses, even those with serious mental illnesses, do not commit violent acts.

However, some individuals in our state with serious mental illnesses may also be violent and pose risks to others as well as to themselves. We therefore have laws outlining procedures aimed at appropriately meeting the treatment needs of these individuals and protecting public safety. Several recent incidents have called into question the effectiveness of both our civil involuntary treatment and our criminal insanity laws. Reviews of these incidents have identified areas in which improvements are warranted to better protect safety.



Consistent with the recommendations from these incident reviews, Governor Chris Gregoire proposes the following enhancements to our mental health laws and estimates costs to implement:

- » **Strengthen assessment tools.** Consumers, their families, treatment providers and law enforcement professionals have all observed that there may be great variability in professional judgment among mental health professionals tasked with assessing need for involuntary treatment, competency to stand trial in criminal cases or inpatient treatment discharge risks. The Washington State Institute for Public Policy will undertake a review of validated national best practice tools in this area to be adopted for use in our state. (\$75,000)
- » **Change involuntary treatment criteria for individuals with violent histories.** We are judicious in restricting individuals' civil liberties by allowing for involuntary treatment only when there is a likelihood of substantial harm to self or others. However, it does not make sense, in cases of individuals with a known history of dangerousness, to allow mental health conditions to deteriorate to a point of crisis before intervening. We will amend the Involuntary Treatment Act to allow for earlier interventions. Funding will cover more beds at state hospitals as changing the criteria for commitment will mean more individuals being committed to these institutions. (\$2.3 million)

» **Establish a Public Safety Review Panel.**

Individuals charged with a crime who have been found by a court to not have capacity to form intent to commit the crime may be found not guilty by reason of insanity (NGRI). NGRI individuals who are deemed to pose ongoing risks are ordered into involuntary inpatient psychiatric treatment at one of our state hospitals. NGRI individuals who are successful in inpatient treatment may petition the courts for release back into community living. State hospital treatment professionals then provide the courts with recommendations as to whether release is appropriate. To ensure that the court receives an objective second opinion about whether release of an NGRI patient poses a risk to the community, a Public Safety Review Panel should conduct an objective external review of the treatment team's release recommendations. (\$100,000)

» **Strengthen community release monitoring.**

NGRI patients discharged by the courts from inpatient treatment to community living continue to be monitored by state hospital staff to ensure compliance with their conditions of release. Monitoring practices vary in the western and eastern regions of our state, and do not consistently include coordination with local law enforcement. The Department of Social and Health Services will develop procedures to ensure the consistency and appropriateness of practices in this area, particularly ensuring that the level of monitoring is consistent with assessed risk. (done with existing revenue)

» **Synchronize laws on concealed weapons permits for offenders.**

Our state law is more permissive than federal law on the ability for individuals with mental illnesses who also have a criminal history to acquire licenses to carry concealed weapons. This discrepancy should be addressed to ensure consistency. (done with existing revenue)

» **Meet the needs of individuals with mental illnesses in prison.**

Juries may be reluctant to find individuals with serious mental illness guilty of the charges filed against them — even if they are found to have had capacity to form intent to commit the crimes — if they clearly are in need of mental health treatment. In these instances, juries sometimes find the individual not guilty by reason of insanity, and the individual is transferred to a state mental hospital. Some of these individuals are very dangerous and not amenable to treatment. They may pose risks to other patients, the larger community and to themselves in these less-secure settings. These individuals would be better served in a secure prison setting. The state should establish a guilty and mentally ill sentencing option that would result in an offender being sentenced to prison, and would require that these offenders receive appropriate treatment while incarcerated. (done with existing revenue)